

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD HINES and WARREN YOCHAM,

Plaintiffs,

08 Civ. 4362 (PKC)

-against-

ORDER

MIKE HINES, DR. MIHELL KAPLAN, THE
STATE OF NEW YORK, AND
MANHATTAN PSYCHIATRIC CENTER

Defendants.
-----x

P. KEVIN CASTEL, U.S.D.J.

This action was commenced on May 9, 2008, when plaintiffs *pro se* Richard Earl Hines and Warren Yocham filed their complaint. It appears to set forth Eighth Amendment claims alleging physical abuse and medical mistreatment, and seeks \$999,999,999,000 in money damages.

On May 15, 2008, I issued an Order inviting plaintiffs to contact the Pro Se Clerk's Office and calling their attention to the obligations of Rule 4(m), Fed. R. Civ. P., which requires dismissal without prejudice if a complaint is not served within 120 days of filing. On that same date, I also referred this action to Magistrate Judge Gorenstein for general pretrial management.

On September 16, 2008, Magistrate Judge Gorenstein issued a Report and Recommendation ("R & R") recommending that I dismiss this action without prejudice. It noted that plaintiffs' 120-day window under Rule 4(m) expired on September 8, 2008. The R & R stated that no proof of service has been filed with respect to any defendant, and that

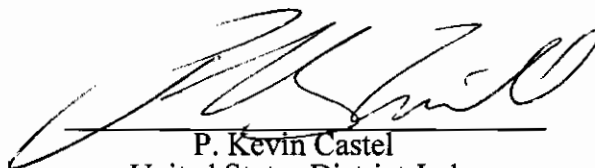
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there has been no application for an extension of time showing good cause for failure to serve. It further noted that the Marshall's Service has received no request from the plaintiffs to effectuate service of process. The R & R therefore recommended that I dismiss this action with prejudice.

Moreover, the R & R alerted the plaintiffs that, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b), Fed. R. Civ. P., the parties have 10 days from service of the Report and Recommendation to file any objections with this Court, and that any request for an extension of time should be addressed to me. As of the date of this Order, I have received no objection, request for extension or other correspondence from the parties.

I therefore adopt the R & R, and dismiss this action without prejudice.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
October 17, 2008